



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO..
10/027,358	12/26/2001	John L. Tetenes JR.	TETJ13A	9629

7590 09/12/2002

RICHARD L. MILLER
12 Parkside Drive
Dix Hills, NY 11746-4879

EXAMINER

PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
3643	

DATE MAILED: 09/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	10/027,358	
Examiner	Art Unit	
David J Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on _____.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-9 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-9 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

PETER M. POON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3300

fmf

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 26 December 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.

4) Interview Summary (PTO-413) Paper No(s). _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

Detailed Action

Election/Restrictions

1. Applicant's election without traverse of claims 1-9 in Paper No. 4 is acknowledged.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains more than one paragraph.

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear how the drawstring pulls the upper edge of the cylindrical containing component closed.

Claims 2-9 depend from rejected claim 1 and include all of the limitations of claim 1 thereby rendering these dependent claims indefinite.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,903,429 to Tetenes in view of U.S. Patent No. 4,890,413 to Nelson et al. Tetenes discloses a device for holding a bucket of chum submerged in water comprising, a cylindrical containing component – 16, a circular bottom component permanently attached to a lower edge of the cylindrical containing component – 16, and a toroidal sleeve – 12 fixedly located near an upper edge of the cylindrical containing component – 16 – see for example figures 1-2. Tetenes further

discloses the cylindrical containing component – 16 captivating the bucket of chum – 18 within the device. Tetenes does not disclose a drawstring cooperating with the upper edge of the cylindrical containing component for pulling the upper edge closed. Nelson et al. does disclose a drawstring – 23 for pulling the upper edge – 11 of the cylindrical containing component – 10 for pulling the upper edge – 11 closed – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device for holding a bucket of chum of Tetenes and add the drawstring to close the upper edge of the container of Nelson et al., so as to completely enclose the inside of the container to securely hold what is inside.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tetenes as modified by Nelson et al. as applied to claim 1 above, and further in view of U.S. Patent No. 5,617,669 to Roberts in view of U.S. Patent No. 2,377,311 to Campbell in view of U.S. Patent No. 1,841,956 to Juergens.

Referring to claim 2, Tetenes as modified by Nelson et al. further discloses the cylindrical containing component – (16 of Tetenes and 10 of Nelson et al.) is fabricated out of sheet material – see for example figures 1 of both Tetenes and Nelson et al. It is inherent that the cylindrical containers are made of sheet material since the thicknesses of the walls of the container are so thin. Tetenes as modified by Nelson et al. further discloses the upper edge of the sheet material is the upper edge of the cylindrical containing component, the lower edge of the sheet material is the lower edge of the cylindrical containing component, and the sheet material has two side edges stitched together – see for example figures 1 of both Tetenes and Nelson et al. It is inherent that the side walls are stitched together since that is how components were attached to the container as seen in at item – 20 in Nelson et al. Tetenes as modified by Nelson et al. further

discloses the sheet material has a first plurality of orifices – see for example figure 1 of both Tetenes and Nelson et al.

Tetenes as modified by Nelson et al. does not disclose the sheet material has a plurality of orifices therein for permitting chum matter to pass through. Levey does disclose the sheet material has a plurality of orifices – 24 for permitting chum matter to pass through – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device for holding a chum bucket of Tetenes as modified by Nelson et al. and add the sheet material having a plurality of orifices for permitting chum matter to pass through of Levey, so as to allow for the device to be more effective and efficient in that the chum can pass through the container walls and into the water to attract fish.

Tetenes as modified by Nelson et al. further does not disclose the sheet material has a second plurality of orifices in-line therein for cooperating with the drawstring threaded therethrough. Campbell does disclose the sheet material has a second plurality of orifices in-line therein for cooperating with the drawstring – 12 threaded therethrough – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device for holding a chum bucket of Tetenes as modified by Nelson et al. and add the sheet material having a second plurality of orifices to thread the drawstring of Campbell, so as to securely hold the drawstring to the sheet material during use.

Tetenes as modified by Nelson et al. does not disclose the sheet material has a longitudinal area extending between the first plurality of orifices and second plurality of orifices in-line, for fabricating the toroidal sleeve. Juergens does disclose the sheet material has a longitudinal area – (at – 5) extending between the first plurality of orifices – (the mesh holes in

the bottom portion of the material below – 5) and the second plurality of orifices in-line – (the mesh holes in the upper portion of the material above – 5), for fabricating the toroidal sleeve – (at – 5) – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device for holding a bucket of chum of Tetenes as modified by Nelson et al. and add the sheet material having a longitudinal area for fabricating the toroidal sleeve of Juergens, so as to allow for the device to be easily manufactured in that the toroidal sleeve is integral with the sheet material.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tetenes as modified by Nelson et al., Levey, Campbell, and Juergens as applied to claim 2 above, and further in view of U.S. Patent No. 2,603,028 to Roberts.

Referring to claim 3, Tetenes as modified by Nelson et al., Levey, Campbell, and Juergens does not disclose the toroidal sleeve is fabricated by stitching a first longitudinal edge of the longitudinal area and a second longitudinal area of the longitudinal area together. Roberts does disclose the toroidal sleeve – 6 is fabricated by stitching – 7' a first longitudinal edge – (at – 7) of the longitudinal area and a second longitudinal area – (at – 7) of the longitudinal area together – see for example figure 5. Therefore it would have been obvious to one of ordinary skill in the art to take the device for holding a bucket of chum of Tetenes as modified by Nelson et al., Levey, Campbell, and Juergens and add the toroidal sleeve is fabricated by stitching a first and second longitudinal edges of the longitudinal area together of Roberts, so as to ensure the toroidal sleeve is securely attached to the device thus making the device stronger and more durable.

Referring to claim 4, Tetenes as modified by Nelson et al., Levey, Campbell, Juergens, and Roberts further discloses the toroidal sleeve – 12 has a foam flotation element housed therein – see for example column 1 lines 58-68 and column 2 lines 1-2 of Tetenes.

Referring to claim 5, Tetenes as modified by Nelson et al., Levey, Campbell, Juergens, and Roberts further discloses the sheet material is a flexible plastic material – see for example column 2 lines 36-38 of Nelson et al. and column 1 lines 31-42 of Roberts. Therefore it would have been obvious to one of ordinary skill in the art to take the device for holding a bucket of chum of Tetenes as modified by Nelson et al., Levey, Campbell, Juergens, and Roberts and further add the sheet material is made of a flexible plastic material of Nelson et al. and Roberts, so as to make the device more lightweight and more inexpensive by using plastic instead of other heavier materials such as metals.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tetenes as modified by Nelson et al. as applied to claim 1 above, and further in view of U.S. Patent No. 3,499,526 to Willinger.

Referring to claim 6, Tetenes as modified by Nelson et al. further disclose the circular bottom component is fabricated out of sheet material having at least one orifice – see for example figures 1 of both Tetenes and Nelson et al. Tetenes as modified by Nelson et al. does not disclose the orifice permitting chum matter to pass through. Willinger does disclose the orifice – 76 permitting chum matter – 12 to pass through – see for example figure 4. Therefore it would have been obvious to one of ordinary skill in the art to take the device for holding a bucket of chum of Tetenes as modified by Nelson et al. and add the orifice in the bottom of the container permitting chum matter to pass through of Willinger, so as to allow for the chum to be

easily removed from the container in that gravity pulls it through the opening without any need for any other outside force.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tetenes as modified by Nelson et al. and Willinger as applied to claim 6 above, and further in view of Roberts. Tetenes as modified by Nelson et al. and Willinger does not disclose the circular bottom component is permanently attached by stitching near a circumference thereof and near the lower edge of the cylindrical containing component. Roberts does disclose the circular bottom – 3 is permanently attached by stitching – 4 near a circumference thereof and near the lower edge of the cylindrical containing component – 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device for holding a bucket of chum of Tetenes as modified by Nelson et al. and Willinger and add the circular containing component permanently attached to the container by stitching of Roberts, so as to make the device stronger and more durable for repeated use.

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tetenes as modified by Nelson et al. as modified by Nelson et al., Willinger and Roberts as applied to claim 7 above, and further in view of Campbell.

Referring to claim 8, Tetenes as modified by Nelson et al., Willinger and Roberts does not disclose a welting has edges sewn in between the circumference of the circular bottom component and the lower edge of the cylindrical containing component. Campbell does disclose a welting – 13 - see figure 3 has edges sewn in between the circumference of the circular bottom component – 11 and the lower edge of the cylindrical containing component – 10 – see figure 3. Therefore it would have been obvious to one of ordinary skill in the art to take the device for

holding a bucket of chum of Tetenes as modified by Nelson et al., Willinger, and Roberts and further add the welting sewn between the bottom portion and the lower edge of the cylindrical container of Campbell, so as to make the device stronger and more durable for repeated use.

Referring to claim 9, Tetenes as modified by Nelson et al., Willinger, Roberts, and Campbell further discloses the sheet material is a flexible plastic material – see column 2 lines 28-38 of Nelson et al., and column 1 lines 31-41 of Roberts. Therefore it would have been obvious to one of ordinary skill in the art to take the device for holding a bucket of chum of Tetenes as modified by Nelson et al., Willinger, Roberts, and Campbell and add the sheet material made from plastic of Nelson et al. and Roberts, so as to make the device as inexpensive and lightweight as possible.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to chum holding devices in general:

U.S. Pat. No. 2,253,688 to Collins – shows stitching and drawstring

U.S. Pat. No. 2,941,327 to Rundell – shows chum bucket

U.S. Pat. No. 3,478,463 to Ruter – shows foam toroidal sleeve

U.S. Pat. No. 3,919,803 to Manguso – shows sheet material and foam sleeve

U.S. Pat. No. 4,638,588 to Abadie – shows chum distributor

U.S. Pat. No. 4,829,705 to Dorsey – shows plurality of orifices in sheet material

GB Pat. No. 2123261 to Bristow – shows plurality of orifices in container

6. Any inquiry concerning this communication from the examiner should be directed to David Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on Monday-Friday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574.



PETER M. POON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600